EXHIBIT "B"

C—114780

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

AGRICULTURAL RESOURCES MITIGATION
DECEMBER 18, 1997

The CALFED Bay-Delta Program is the most ambitious and comprehensive undertaking of its kind in the United States. It embodies several program components when integrated together form a strategy to ensure a healthy ecosystem, reliable water supplies, good water quality, and stable levees in California's Bay-Delta. These components include an Ecosystem Restoration Program, a Water Use Efficiency Program, a Water Quality Program, a Levee System Integrity Program, a Watershed Management Program, a Water Transfers Policy, a Storage and Conveyance component, and an Assurances and Financing Package. When taken as a whole the CALFED Bay-Delta Program will meet the above-stated objectives while adhering to a set of six Solution Principles. According to these principles the solution must: 1) reduce conflicts among beneficial uses of water; 2) be equitable; 3) be affordable; 4) be durable; 5) be implementable; and 6) have no significant redirected impacts.

While the CALFED Program may offer many potential benefits to agriculture, it is apparent that each CALFED program element could result in significant impacts to the California agricultural resource base, particularly agricultural land, agricultural water supply, and agricultural water quality. These impacts may have associated socio-economic impacts to local communities, local jurisdictions, and local economies. It is imperative that these impacts be identified and disclosed in the Programmatic EIR/EIS in order to assure continued collaboration of all stakeholders with the CALFED Program.

Furthermore, CEQA has a number of requirements to be followed when a public agency proposes actions which impact the environment. The purpose of a CEQA/NEPA environmental review is to provide full disclosure of program impacts to allow for informed decision-making. In the context of the CALFED Program, this review will also provide for an analysis of how well the program as drafted adheres to the solution principles, particularly with a focus on significant redirected impacts.

Since agricultural land and its associated water are finite resources, the loss of this productive use is considered a significant adverse impact to the existing environment which must be avoided, reduced, or mitigated to a level of insignificance. Programmatic alternatives and measures to avoid, reduce, and mitigate impacts on agriculture are needed at the programmatic level.

It is the CDFA position that to maintain consistency with the CALFED Solution Principles and the Governor's Water Policy, identifying these agricultural resources impacts as unmitigable with an accompanying Statement of Overriding Consideration in the CEQA document is unacceptable. Appropriate mitigation measures at both the programmatic and project specific levels exist, are feasible, and implementable.

CEQA Issues

Significant Effect

Appendix G of the CEQA Guidelines lists significant effects. Item (y) of the list is to convert of prime agricultural land to non-agricultural use or impair the agricultural productivity of prime agricultural land.

Thresholds of Significance

Programmatic level:
The CDFA has reviewed various draft CALFED documents and estimated that CALFED is considering actions which could result in the loss of at least 200,000 acres of predominately prime and unique agricultural land, and associated water resources. In addition to this there are ill-defined but likely to be highly significant impacts related to agricultural practices on land which would not be converted. This is more than three orders of magnitude greater than any reasonable threshold of significance. There is absolutely no question that the CALFED program is proposing actions with significant adverse impacts on agricultural resources.

Site-specific level:
As the Program moves into Phase III, which in fact is taking place with approval of Category III environmental restoration projects, site/project specific environmental assessment is required. The Resources Agency, Department of Conservation California Land Evaluation and Site Assessment Model should be used as a method of determining the significance of land conversion actions. This is an empirical method based on the USDA-NRCS methodology.

Consideration of the Whole of the Project and Cummulative Impacts

Since the program will have significant impacts, then any future project under the programmatic EIR, or pursued by any CALFED member agency, with any impact on agriculture whatsoever must be considered to have a significant impact on the environment. There are a number of reasons for this, but two examples will suffice for now: First, any site-specific project with any impacts on agriculture contributes to the cumulatively significant impacts of the program. Second, under CEQA it is improper to split a program into small parts which by themselves may not have significant impacts and deal with these in isolation.

Mitigation For Environmental Impacts To Agricultural Resources

Standards for mitigation at the programmatic and site-specific levels:
The standards under CEQA are proportionality and nexus.

Proportionality: That the mitigation be in proportion to the nature and extent of the impact.

Nexus: That the mitigation be linked to the underlying activity which causes the impacts.

Programmatic level mitigation:
The preferred method of dealing with potential impacts is to avoid them through a reasonable range of alternatives. CALFED has chosen not to subject those elements of it's program (the four Common Elements) with the greatest potential for impacts on the environment (including agricultural resources and human use of the land for agriculture) to alternatives analysis. This approach may prove to be problematic in attempting to conform to the requirements of CEQA.

The CDFA is charged under law to protect and enhance California agriculture. Looking at California agriculture as a statewide environmental resource, it is the CDFA position that:

- **CALFED should adopt a policy to maintain the productivity and flexibility of agricultural resources to the greatest extent practicable** when implementing the CALFED Program in its entirety.

- **A supporting CALFED Right-to-Farm policy should also be explicitly stated.**

These two guiding policies would lay the foundation necessary to adhere to the solution principle of no redirected impacts.

CALFED should also establish a policy that **to the greatest extent practicable, CALFED goals and objectives will be met through CALFED actions that maintain land in private ownership** in order to best preserve the economic and environmental productivity of that land. Rather than through the wholesale acquisition of land by Federal and State government agencies, these agencies will establish cooperative programs to work with private landowners to restore and rehabilitate the ecosystem to meet CALFED program objectives.

Programmatic level and site specific mitigation:
- If agricultural land is converted to another use, protect other agricultural land of equivalent productive potential. Standard of adequacy: Up to three to one, land equivalency to be determined by CDFA in consultation with Department of Conservation and the USDA-NRCS.

- If agricultural practices are to be restricted, protect other agricultural land for agricultural use without restrictions. Standard for adequacy: One to one, to be reviewed and adjusted on a case by case basis.

- If agricultural water resources are acquired for other uses, provide an equivalent mitigation water supply for agricultural use on other lands. Standard of adequacy: One to one at the point of use, considering water quality, timing, cost and reliability of supply. Since water supply is a limiting factor in agricultural resource productivity in many areas of the State, and CALFED's fundamental mission relating to a reliable and adequate water supply, it logically follows that providing an adequate and high quality water supply to other sites or regions is a reasonable approach to mitigation. This is not a new concept. Off-site mitigation for impacts on environmental resources is standard practice in CEQA. For example the Department of Fish and Game has standards for creation, maintenance, and protection of wetlands to offset unavoidable impacts on existing wetlands.

- Establish a CALFED policy that a portion of any newly developed CALFED water supply is identified as agricultural mitigation water, based on the amount of agricultural water redirected to other uses as a result of CALFED actions. Critical considerations include volume, quality, timing of availability, and affordability.

- When agricultural land conversion results in reallocation of riparian or pre-1914 water rights to nonagricultural uses, CALFED should develop a mechanism whereby this unallocated agricultural water is made available to other agricultural users.

- Development agreements - CALFED agencies developing habitat through agricultural land conversion agree to develop agricultural infrastructure, buffers, and other tangible support for remaining agricultural lands.

- Establish buffers as part of habitat restoration projects, or compensated for if on agricultural land. These buffers should have vegetation compatible with farming and habitat objectives. For example, vegetation that has the potential of harboring agricultural insect pest should be avoided. Those that provide refuge for beneficial insects should be encouraged.

- Easements - purchase and/or transfer of development rights programs. This mitigation alternative does not avoid or reduce the impact or offset or replace the lost productivity. Nevertheless, preservation of appropriate portions of the resource base could be an acceptable mitigation. This could be accomplished via easements.

- For flood-prone areas, purchase flood easements and protect future agricultural uses while repairing existing levees as the preferred flood management strategy rather than developing an extensive levee setback program.

- Examine additional structural as well non-structural alternatives to achieving project goals which would not impact the agricultural resources of the State.

- A Planned Unit Development approach to habitat development to minimize adjacent land use conflicts with remaining agriculture lands.

- Establishing exclusive agricultural zoning. While this is more of a local land-use issue, the potential to coordinate such an effort with the Delta Protection Commission and affected counties within and outside the Delta is quite real.

- Phasing of specific component implementation can provide partial mitigation, or through adaptive management result in avoiding impacts to agricultural resources.